

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

LI MALTBA,

Plaintiff,

VS.

**MICHAEL CHERTOFF, Secretary of
Homeland Security, et al.,**

Defendants.

CASE NO. 1:07CV161

JUDGE CHRISTOPHER A. BOYKO

ORDER OF DISMISSAL

CHRISTOPHER A. BOYKO, J.:

This matter comes before the Court upon Defendants’ Motion (ECF DKT #9) to Dismiss as Moot. For the following reasons, the motion is granted and the captioned Complaint is dismissed.

I. BACKGROUND

On January 19, 2007, Plaintiff, Li Maltba, filed her Complaint for Mandamus, seeking an Order requiring Defendants to properly adjudicate Plaintiff's I-485 Application to Register Permanent Resident or Adjust Status. Although the application was pending since January 21, 2005, the decision, according to Defendants, awaited completion of the FBI name check.

On February 21, 2008, Defendants filed their Motion (ECF DKT #9) to Dismiss as Moot. Defendants attached evidence that Plaintiff's I-485 Application to Register Permanent Resident or Adjust Status was approved on October 5, 2007.

II. LAW AND ANALYSIS

Mandamus relief is an extraordinary remedy. *Pittston Coal Group v. Sebben*, 488 U.S. 105, 121 (1988). Under the Mandamus Act, 28 U.S.C. § 1361, the District Court may grant a writ of mandamus only if: "(1) the petitioner can establish a clear and indisputable right to the relief sought; (2) the defendant has a nondiscretionary duty to honor that right; and (3) the petitioner has no other adequate remedy." *Zhang v. Secretary of Homeland Security*, No. 1:07CV224, 2007 WL 2572179, at *3 (N.D. Ohio Aug. 31, 2007) (citing *Anjum v. Hansen*, 2007 U.S. Dist. LEXIS 22685 (S.D. Ohio Mar. 28, 2007)).

In view of the evidence submitted by Defendants, demonstrating Maltba's I-485 Application has been approved, Plaintiff can no longer establish a "clear and indisputable" right to relief; and furthermore, has obtained the remedy sought in her Complaint.

III. CONCLUSION

For the reasons set forth above, mandamus relief is not available. Defendants' Motion to Dismiss is, therefore, granted; and the Complaint is dismissed.

IT IS SO ORDERED.

DATE: __February 22, 2008__

S/Christopher A. Boyko
CHRISTOPHER A. BOYKO
United States District Judge